

## § 84.49

### § 84.49 What if the project costs more or less than originally expected?

All requests for additional monies for approved coastal wetland grants will be subject to the entire review process along with new grants. Any monies left over after the project is complete, or if the project is not completed, should be returned to the Washington Office for use in following years. If a State has lands it wishes to acquire, restore, or enhance in close proximity to the original project, and the Region deems that spending project monies in these areas would provide similar benefits, the Region may use unspent balances to pay for these projects with prior approval from the Washington Office. States must provide adequate justification and documentation to the Regions that the lands acquired, restored, or enhanced are similar to those in the original proposal and provide similar benefits to fish and wildlife.

### § 84.50 How does a State certify compliance with Federal laws, regulations, and policies?

(a) In accepting Federal money, coastal State representatives must agree to and certify compliance with all applicable Federal laws, regulations, and policies. The applicant will need to submit a Statement of Assurances (either SF 424B or SF 424D) signed and dated by an authorized agency representative as part of the proposal.

(b) Compliance with environmental and other laws, as defined in the Service Manual 523 FW Chapter 1,<sup>6</sup> may require additional documentation. Consult with Regional Offices for how this applies to a specific project.

## PART 85—CLEAN VESSEL ACT GRANT PROGRAM

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<sup>6</sup>The Fish and Wildlife Service Manual, see footnote 3 for availability.

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AUTHORITY: 16 U.S.C. 777g(c).

SOURCE: 59 FR 11206, Mar. 10, 1994, unless otherwise noted.

### Subpart A—General

#### § 85.10 Purpose and scope.

The purpose of this part is to establish requirements for state participation in the Clean Vessel Act Grant Program authorized by Section 5604 of the Clean Vessel Act (Public Law 102–587, Subtitle F).

#### § 85.11 Definitions.

Terms used in this part shall have the following meaning:

*Clean Vessel Act or Act.* The Clean Vessel Act (Pub. L. 102–587, subtitle F).

*Coastal State.* A State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands. The term excludes Alaska and American Samoa because these States have a ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in § 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), of less than one.

*Costal waters.* In the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes. In other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

*Coastal zone.* Coastal zone has the same meaning that the term has in section 304(1) of the Coastal Zone Management Act of 1992 (16 U.S.C. 1453(1)). The coastal zone consists of coastal waters (including the lands therein and thereunder) and the adjacent shorelands, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands and protect coastal waters.

*Construction.* Activities which produce new capital improvements and increase the value of usefulness of existing property.

*Dump station.* A facility specifically designed to receive sewage from portable toilets carried on vessels. Dump stations do not include lavatories or restrooms.

*Education/information.* The education/information program, as identified in the technical guidelines as published in the FEDERAL REGISTER, designed to make recreational boaters aware of the environmental pollution problem resulting from sewage discharges from vessels and inform them of the location of pumpout and dump stations.

*Eligible applicant.* An agency of a State designated by the Governor.

*Equitable fees.* The maximum charge per pumpout is \$5.00. Price modifications and discounts are subject to State/Federal laws concerning pricing.

*Facility.* A pumpout station or dump station.

*Facility open to the public.* (1) A Clean Vessel Act facility that is open and available to the public is one where the

public has full and reasonable access to the pumpout/dump station, including:

(i) Provision of signage visible from the water to direct boaters to pumpout/dump stations;

(ii) Location of pumpouts to facilitate ease of use by all boats typical to that particular marina;

(iii) Equitable fees; and

(iv) Reasonable open periods.

(2) To be eligible for funding under this program, both public and private facilities must be open to the public.

*Grant.* An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee.

*Inland State.* A State which is not a coastal State. The District of Columbia, American Samoa and Alaska are included as inland States (Rationale for Samoa and Alaska being inland States can be found in § 85.11(b) above).

*Maintenance.* Those activities necessary for upkeep of a facility. These are activities that allow the facility to function and include routine recurring custodial maintenance such as housekeeping and minor repairs as well as the supplies, materials, and tools necessary to carry out the work. Also included is non-routine cyclical maintenance to keep facilities fully functional.

*Operation.* Those activities necessary for the functioning of a facility to produce desired results. These are activities that make the facility work.

*Plans.* Those plans identified in the technical guidelines as published in the FEDERAL REGISTER, for construction or renovation of pumpout and dump stations necessary to ensure that there are adequate and reasonably available stations to meet the needs of recreational vessels using the coastal waters of the State.

*Private facilities.* Private facilities include those operated by the following:

(1) For profit or non-profit private marinas, docks, etc.;

(2) For profit or non-profit concessionaires, whether they are leased or private facilities, on public lands; or

(3) Yacht or boating clubs, whether they are open to the public or members-only facilities.

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*Public facilities.* Public facilities include municipal, county, port authority, State and Federal marinas, docks, etc., operated by those agencies.

*Pumpout station.* A facility that pumps or receives sewage from a type III marine sanitation device (holding tank) installed on board vessels.

*Reasonable open periods.* This part does not specify hours, days and seasons, however, some suggested examples, provided no other factors are involved, are presented:

(1) Pumpout/dump stations may be open during the same period the fuel docks are normally open.

(2) Pumpout stations may be open when the marina is open and staff is present to pump out boats.

(3) Pumpout/dump stations may be open during the hours considered to be normal marina business hours as adjusted by seasonal differences.

*Recreational vessel.* Watercraft manufactured for operation, or operated, primarily for pleasure. This term includes any watercraft leased, rented, or chartered to another for the latter's pleasure.

*Renovation.* Major rehabilitation of a facility to restore it to its original intended purpose.

*Surveys.* Those surveys identified in the technical guidelines as published in the FEDERAL REGISTER. Surveys are designed to determine the number and location of all operational pumpout and dump stations at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone. Surveys also are designed to determine the number of recreational vessels in coastal waters with holding tanks or portable toilets, and the areas of coastal waters where those vessels congregate.

*Type III marine sanitation device (holding tank).* Any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge sewage.

[59 FR 11206, Mar. 10, 1994, as amended at 62 FR 45348, Aug. 27, 1997]

### § 85.12 Information collection, record-keeping, and reporting requirements.

(a) The information collection requirements for this grant program, ex-

cept for surveys, are those necessary to comply with 43 CFR 12 which include a narrative statement as identified in 85.22 Grant Proposals. The collection of survey information contained in this rule was approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.*, October 18, 1993, OMB No. 1018–0086, expiration date September 30, 1996.

(b) Record keeping requirements include the tracking of costs and accomplishments related to the grant as required by 43 CFR 12.60, monitoring and reporting program performance (43 CFR 12.80), and financial reporting (43 CFR 12.81).

(c) Reporting requirements include retention and access requirements as required by 43 CFR 12.82.

## Subpart B—Application for Grants

### § 85.20 Eligible activities.

(a) Eligible grant activities—coastal States:

(1) Eligible activities include identification in the coastal zone of all operational pumpout and dump stations, and surveys of recreational vessels in coastal waters with holding tanks or portable toilets, and the areas where those vessels congregate. Also eligible are costs of developing a list, including chart coordinates, of all operational pumpout and dump stations in the coastal zone of the State, for submission to the Fish and Wildlife Service.

(2) Plans for construction and renovation of pumpout and dump stations in the coastal zone of the State necessary to ensure that these stations are adequate and reasonably available to meet the needs of recreational vessels using the coastal waters of the State. Completed Stated-funded plans may be submitted after the technical guidelines appear in the FEDERAL REGISTER.

(b) Eligible grant activities—all States:

(1) Eligible grant activities include education/information program to educate/inform recreational boaters about the environmental pollution problems resulting from sewage discharges from vessels and to inform them of the location of pumpout and dump stations.

(2) Eligible grant activities include the construction, renovation, operation